

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

JOYCE D. OTT, )  
Plaintiff, )  
v. ) No. 3:09-CV-166  
MICHAEL J. ASTRUE, )  
COMMISSIONER OF SOCIAL SECURITY, )  
Defendant. )  
(Phillips/Shirley)

## MEMORANDUM AND OPINION

This Social Security appeal is before the Court on the Report and Recommendation (“R&R”) filed by United States Magistrate Judge C. Clifford Shirley [Doc. 22]. There have been no timely objections to the R&R [Doc. 22], and enough time has passed since the filing of the R&R [Doc. 22] to treat any objections as having been waived. *See* 28 U.S.C. § 636(b)(1); Fed.R.Civ.P. 72(b).

After a careful review of this matter, the Court is in complete agreement with the magistrate judge’s conclusion that the Commissioner’s Motion for Summary Judgment [Doc. 20] be **DENIED**, and that Plaintiff’s Motion for Summary Judgment [Doc. 13] be **GRANTED**, to the extent that this case is remanded to the Commissioner pursuant to 42 U.S.C. § 1383(c)(3) and sentence four of 42 U.S.C. § 405(g) for a new hearing consistent with this Opinion. Accordingly, the Court **ACCEPTS** **IN WHOLE** the R&R [Doc. 22] under 28 U.S.C. § 636(b)(1) and Fed.R.Civ.P. 72(b).

It is **ORDERED**, for the reasons stated in the R&R [Doc. 22], which the Court adopts and incorporates into its ruling, that the Commissioner's Motion for Summary Judgment [Doc. 20] is

**DENIED**, and that Plaintiff's Motion for Summary Judgment [Doc. 13] is **GRANTED**, whereby this case is remanded to the Commissioner pursuant to 42 U.S.C. § 1383(c)(3) and sentence four of 42 U.S.C. § 405(g) for a new hearing consistent with this Opinion.

**IT IS SO ORDERED.**

**ENTER:**

s/ Thomas W. Phillips  
United States District Judge